

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 8225 of 1992****For Approval and Signature:****HONOURABLE MR. JUSTICE B.J.SHETHNA****HONOURABLE MR.JUSTICE H.B.ANTANI**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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GUJARAT SLUM CLEARANCE BOARD - Petitioner(s)**Versus****GENERAL SECRETARY - Respondent(s)**

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Appearance :

MR DA BAMBHANIA for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA**and****HONOURABLE MR.JUSTICE H.B.ANTANI****Date : 06/11/2006****ORAL JUDGMENT****(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)**

The petitioner Gujarat Slum Clearance Board has
challenged in this petition the impugned Award dated

21.10.1991 passed by the learned Industrial Tribunal, Ahmedabad, in Reference I.T. No.128 of 1991, whereby the learned Tribunal declared that the pay scale of Rs.1200-1800 was applicable to the employees - Work Assistance with effect from 1.5.1986 and accordingly the petitioner Board was directed to fix their pay scale of Rs.1200-1800 of those Work Assistance with effect from 1.5.1986.

Learned Counsel Shri Bambhania for the petitioner submitted that the post of Work Assistance was never in existence till 1987. However, as per Circular (Annexure : C) the permission was granted w.e.f. 1.7.1987. Similarly, as per Resolution dated 9.7.1987 the Rules were applicable w.e.f. 1.7.1987. This aspect was totally lost sight by the Tribunal while passing the impugned Award. He, therefore, submitted that at least the impugned Award be modified with effect from 1.7.1987, instead of 1.5.1986 ordered by the learned Tribunal.

It may be stated that initially the Notice was issued by the Division Bench of this Court way back on 18.11.1992 and while issuing notice the Division Bench stayed part of the Award giving effect to the Award w.e.f. 1.5.1986. Though served, no one appeared, therefore, on 25.11.1992 the petition was admitted by issuing Rule and stay of Award, so far it grants revised pay scale from 1.5.1986 to 1.7.1987, was granted. Thus, the part of the Award remained stayed till today.

In this case though notice was duly served to the respondent, no one appeared, therefore, we have

heard Shri Bambhania for the petitioner and decided this petition.

Ordinarily, this Court does not interfere with the order passed by the Tribunal even if the Tribunal committed an error on facts or law. However, in the instant case jurisdictional error was committed by the learned Tribunal by acceding its jurisdiction while granting relief to the respondent with effect from 1.5.1986 though, as per Resolution, the effect could have been given, in any case, with effect from 1.7.1987. It seems that because of this only the Division Bench of this Court, while admitting this petition way back on 25.11.1992, granted interim relief to that extent.

When the post of Work Assistance were never in existence in 1986 then there was no question of granting effect from 1.5.1986. The benefit could have been granted with effect from 1.7.1987 as per the Resolution.

In view of the above discussion, this petition is partly allowed and the impugned Award passed by the learned Tribunal stands modified to the effect that the concerned employees would be entitled for new pay scale of Rs.1200-1800 with effect from 1.7.1987, and not from 1.5.1986 as ordered by the learned Tribunal. Rest of the Award is confirmed. Rule made absolute to the aforesaid extent. No order as to costs.

(B. J. SHETHNA, J.)

(H.B.ANTANI, J.)

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